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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

10 JOSH RICHEY

11 Plaintiff,

12 v.

13 FENOZ LLC dba BIG PINES
14 MOUNTAIN HOUSE OF TAHOE

15 Defendant.

16 CASE NO.
17 Civil Rights

18 **COMPLAINT FOR PRELIMINARY AND
19 PERMANENT INJUNCTIVE RELIEF AND
20 DAMAGES:**

1. **Violations of Americans with Disabilities Act
21 of 1990 (42 U.S.C. § 12101 *et seq.*)**
2. **Violation of the California Unruh Act (Cal.
22 Civil Code §§ 51 and 52)**
3. **Violation of the California Disabled Persons
23 Act (Cal. Civil Code § 54 *et seq.*)**

24 **DEMAND FOR JURY TRIAL**

25 Plaintiff JOSH RICHEY complains of Defendant FENOZ LLC dba BIG PINES
26 MOUNTAIN HOUSE OF TAHOE and alleges as follows:

27 1. **INTRODUCTION:** Plaintiff is a disabled veteran who uses a service dog to
28 ameliorate the effects of his psychiatric disability, bipolar disorder. In late February, he planned a
trip to Lake Tahoe to go snowboarding with a friend. Prior to the trip, Plaintiff made a
reservation to stay at the Big Pines Mountain House of Tahoe located at 4083 Cedar Ave, South
Lake Tahoe, California, for the night of February 29, 2024. Plaintiff had stayed at this location
previously. He made the reservation through a third-party travel website. On February 29, 2024,
Plaintiff and his service dog, Harley, drove from his home in the Bay Area to South Lake Tahoe.

1 When Plaintiff arrived at the Big Pines Mountain House, he parked his vehicle and went inside
2 the office to check in. As is his usual practice, he was accompanied by Harley. Harley was
3 wearing a vest which identified him as a service dog.

4 2. Plaintiff approached the check-in area, and he informed Defendant's employee in
5 the office that he had a reservation and would like to check in. Defendant's employee informed
6 Plaintiff that the Big Pines Mountain House had a new policy, and he would have to show an ID
7 proving that his dog is in fact a service dog in order to stay at the motel without being charged a
8 pet cleaning fee. Plaintiff asked why Defendant had changed their policy. He explained that he
9 had stayed at the motel many times with Harley without any issue. Defendant's employee
10 reiterated that Defendant had changed their policy and now require all service dog handlers to
11 provide proof that their dog is a service dog. Plaintiff explained to Defendant's employee that
12 there is no such thing as an ID or paperwork which proves that a dog is a service dog because
13 neither the ADA nor state access laws require such paperwork. Defendant's employee and
14 Plaintiff had a lengthy discussion about the legality of such a requirement, and ultimately,
15 Plaintiff requested that Defendant's employee call her manager.

16 3. Defendant's employee called the manager/owner as Plaintiff requested, and she
17 told her boss the Plaintiff refused to provide an ID for his service dog. Defendant's
18 manager/owner told the employee that she should make a one-time exception to the policy of
19 requiring IDs for service dogs for Plaintiff. Defendant's employee hung up the phone, completed
20 the check-in process with Plaintiff and provided him with the key to his room. Plaintiff was in his
21 room for only a few minutes when he determined that he was too upset about Defendant's illegal
22 policy and Defendant's treatment of him to stay at the Big Pines Mountain House. He left the
23 room, returned to the lobby, and requested a refund of the money he had paid for the room.
24 Defendant refused to refund the money because he had booked the room through a third-party
25 website, even after being asked to do so by the travel agent with whom Plaintiff booked the room
26 and the South Lake Tahoe Police.

27 4. Although Defendant's begrudgingly allowed Plaintiff a one-time reprieve from its
28 noncompliant service dog policy, Plaintiff had to essentially force his way into the motel, which

1 many disabled service-dog users would not do. Further, Plaintiff's experience of being treated
2 very poorly and essentially having to force Defendant's to provide him even minimal service left
3 him emotionally drained and upset. He does not want to experience the same treatment the next
4 time he visits, so he is deterred from returning to the Big Pines Mountain House until Defendant
5 adopts an ADA compliant service dog policy. Further, Defendant constructively denied Plaintiff
6 lodging at its hotel because he is disabled and needs the assistance of a service animal for certain
7 tasks. Plaintiff left to try to find another accommodation which would not require an "ID" for his
8 service dog.

9 5. The Defendant's decision to exclude service dogs contravenes the Department of
10 Justice's technical assistance and guidance on the subject of "Service Animals." In relevant part,
11 the guidance states:

12 • A person with a disability cannot be asked to remove his service animal from the
13 premises unless: (1) the dog is out of control and the handler does not take
14 effective action to control it or (2) the dog is not housebroken. When there is a
15 legitimate reason to ask that a service animal be removed, staff must offer the
16 person with the disability the opportunity to obtain goods or services without the
17 animal's presence.

18 DOJ 2010 "Service Animal" guidance available at <https://www.ada.gov/resources/service->
19 [animals-2010-requirements/](https://www.ada.gov/resources/service-animals-2010-requirements/). Similarly, the DOJ's FAQs regarding Services Animals mirror these
20 requirements specifically in the hotel context:

21 **Q17. Does the ADA require that service animals be certified as service
22 animals?**

23 A. No. Covered entities may not require documentation, such as proof that the
24 animal has been certified, trained, or licensed as a service animal, as a condition for
25 entry.

26 **There are individuals and organizations that sell service animal certification
27 or registration documents online. These documents do not convey any rights
28 under the ADA and the Department of Justice does not recognize them as**

1 proof that the dog is a service animal.

2 <https://www.ada.gov/resources/service-animals-faqs/>

3 6. Plaintiff loves to snowboard. It is an activity that calms him and helps him
4 regulate his disability. Plaintiff often snowboards in the Tahoe area, and when he does, he likes to
5 stay in hotels that are nearby. Big Pines Mountain House in South Lake Tahoe is very
6 conveniently located for Plaintiff when he snowboards at Heavenly. Plaintiff intends to return to
7 the motel in the future but cannot do so until the policies of the motel are made accessible to
8 disabled individuals who use service dogs, including revision of its service dog policies and
9 necessary employee training and/or re-training. Plaintiff has brought this lawsuit to force
10 Defendant to change its discriminatory and illegal policies and compensate him for initially
11 refusing to allow him to stay at the motel because Plaintiff is a disabled person who needs the
12 assistance of his qualified service dog and its poor treatment of Plaintiff. Plaintiff seeks an
13 injunction to protect the rights of all disabled persons, including Plaintiff, when accompanied by a
14 qualified service dog at the Big Pines Mountain House.

15 7. **JURISDICTION:** This Court has jurisdiction of this action pursuant to 28 USC
16 sections 1331 and 1343. This Court has jurisdiction over the claims brought under California law
17 pursuant to 28 U.S.C. § 1367.

18 8. **VENUE:** Venue is proper in this court pursuant to 28 USC section 1391(b) and is
19 proper because the real property which is the subject of this action is located in this district and
20 that Plaintiff's causes of action arose in this district.

21 9. **INTRADISTRICT:** This case should be assigned to the Sacramento intradistrict
22 because the real property which is the subject of this action is located in this intradistrict and
23 Plaintiff's causes of action arose in this intradistrict.

24 10. **PARTIES:** Plaintiff Josh Richey is a "qualified" disabled person who uses the
25 assistance of a service dog to assist him with certain tasks that ameliorate his disability. He
26 suffers from bipolar I disorder which causes Plaintiff to experience, in its unmitigated state, poor
27 sleep, hallucinations, paranoia, singular and ruminating thinking, difficulty focusing, and
28 difficulty maintaining health hygiene. Plaintiff's disability substantially limits several major life

1 activities including his ability to maintain relationships with others, sleep regulation, his ability to
2 work, and his ability to think clearly. Despite mitigation of his symptoms with several
3 medications and other coping mechanisms such as living an extremely regimented lifestyle, doing
4 the same tasks at the same time each day, Plaintiff still experiences breakthrough symptoms and
5 panic attacks. Plaintiff relies on his service dog, a malamute huskie named “Harley” to assist him
6 with certain tasks related to his disability including alerting him of the onset of agitation and early
7 panic attack symptoms, providing deep pressure therapy, and creating a barrier between Plaintiff
8 and other people. Harley was professionally trained by several different trainers with significant
9 assistance from Plaintiff. Plaintiff and Harley have been working together for over six years.
10 Plaintiff and Harley reinforce their training together daily. Plaintiff is a qualified person with a
11 disability as defined under federal and state law. 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and
12 California Government Code § 12926(1).

13 11. Defendant FENOZ LLC dba BIG PINES MOUNTAIN HOUSE OF TAHOE, is
14 and was at all times relevant to this Complaint the owner, operator, lessor and/or lessee of the
15 subject business located at 4083 Cedar Ave, South Lake Tahoe, California, known as the Big
16 Pines Mountain House.

17 12. The Big Pines Mountain House is a place of “public accommodation” and a
18 “business establishment” subject to the requirements *inter alia* of the categories of 42 U.S.C.
19 section 12181(7) of the Americans with Disabilities Act of 1990, of California Civil Code
20 sections 51 *et seq.*, and of California Civil Code sections 54 *et seq.*

21 13. **FACTUAL STATEMENT:** Plaintiff Josh Richey has been working with his
22 service dog Harley for more than six years. Harley is a malamute huskie who was both
23 professionally trained and individually trained to be a service dog. Plaintiff has also trained and
24 continues to train Harley to serve his specific needs throughout their relationship through a series
25 of commands and gestures. Harley is specifically trained to assist Plaintiff by alerting him of the
26 onset of agitation/mania and early panic attack symptoms, providing deep pressure therapy, and
27 creating a barrier between Plaintiff and other people. Harley was professionally trained by several
28 different trainers with significant assistance from Plaintiff.

1 14. Harley is trained to do several tasks he would not otherwise know but for his
2 training. For example, Harley is trained to interrupt/alert Plaintiff of behaviors such as eye
3 twitching, hitting his temple with his hand, rocking, and humming which indicate the onset of a
4 manic episode or panic attack. Additionally, Harley is trained to provide deep pressure therapy
5 on Plaintiff in a sitting or lying down position. When he requires deep pressure therapy, Plaintiff
6 uses the command “on me” and taps two fingers on his chest. If Plaintiff is lying down, Harley
7 will lie on top of Plaintiff’s chest completely flat and splayed out until Plaintiff releases him. If
8 Plaintiff is sitting, Harley hooks his head around Josh’s neck and goes limp to provide a dead
9 weight and thus the most pressure. Plaintiff can then slow himself down and relax by focusing on
10 Harley’s breathing and weight on top of him.

11 15. Harley is a working dog; he is not a pet. Plaintiff and Harley have trained
12 extensively together, and they supplement that training daily. Plaintiff takes Harley almost
13 everywhere with him. It is important they stay together as much as possible because (a) Harley
14 provides important services for Plaintiff; and (b) it is part of the training and bonding requirement
15 that they be together constantly to maintain their bond. With few exceptions, where Plaintiff
16 goes, Harley goes. Below is a photograph of Harley as he looked on the day of Plaintiff’s visit to
17 the Big Pines Mountain House:



1 16. Plaintiff is a disabled veteran who uses a service dog to ameliorate his disability.
2 In late February, he planned a trip to Lake Tahoe to go snowboarding with a friend. Prior to the
3 trip, Plaintiff made a reservation to stay at the Big Pines Mountain House of Tahoe located at
4 4083 Cedar Ave, South Lake Tahoe, California, for the night of February 29, 2024. He made the
5 reservation through a third-party travel website. On February 29, 2024, Plaintiff and his service
6 dog, Harley, drove from his home in the Bay Area to South Lake Tahoe. When Plaintiff arrived at
7 the Big Pines Mountain House, he parked his vehicle and went inside the office to check in. As is
8 his usual practice, he was accompanied by Harley. Harley was wearing a vest which identified
9 him as a service dog.

10 17. Plaintiff approached the check-in area, and he informed Defendant's employee in
11 the office that he had a reservation and would like to check in. Plaintiff has stayed at the Big
12 Pines Mountain House previously, and he recognized the employee at the check-in area as Anna.
13 Defendant's employee informed Plaintiff that the Big Pines Mountain House had a new policy,
14 and he would have to show an ID proving that his dog is in fact a service dog in order to stay at
15 the motel without the need to pay a pet fee. Plaintiff asked why Defendant had changed their
16 policy. He explained that he had stayed at the motel many times with Harley without any issue.
17 Defendant's employee reiterated that Defendant had changed their policy and now require all
18 service dog handlers to provide proof that their dog is a service dog. Plaintiff explained to
19 Defendant's employee that there is no such thing as an ID or paperwork which proves that a dog
20 is a service dog because neither the ADA nor state access laws require such paperwork.
21 Defendant's employee countered that other guests have provided her with an ID or paperwork
22 which show that their dogs are service dogs. Plaintiff again pushed back on Defendant's
23 employee's request by asking her to explain what "ID" or "paperwork" a service dog handler is
24 required to carry/provide to business according to State or federal law. Defendant's employee
25 simply reiterated that Defendant requires service dog handlers to provide an ID.

26 18. Plaintiff told Defendant's employee that he was not able to provide an ID or
27 "paperwork" proving that Harley is a service dog. Anna reiterated that it is Defendant's policy
28 that all service dog handlers provide an ID proving that their dogs are service dogs. Plaintiff then

1 asked Defendant's employee to provide him with information about which organization issues the
2 "ID" certifying service dogs that Defendant must see. Anna admitted that she did not know what
3 organization certifies service dogs. Plaintiff then asked Anna to look up the ADA guidelines
4 regarding service dogs and simply follow those guidelines. Defendant's employee refused to
5 look up the ADA guidelines and instead told Plaintiff that she has been in the hospitality industry
6 for many years and knows what she can and cannot ask for.

7 19. Plaintiff was becoming frustrated by Defendant's refusal to follow the law, and he
8 requested that Defendant's employee grant him access to his room. He informed Anna that
9 Defendant was breaking the law by requiring him to show an ID for his service dog. Defendant's
10 employee then asked Plaintiff if he could show her a note from his doctor identifying his need for
11 a service if he could not show an ID. Plaintiff informed Defendant's employee that it is contrary
12 to the ADA, and possibly HIPPA, to request a note from his doctor or any of his private medical
13 information. Then, Plaintiff requested that Defendant's employee call the manager or owner of
14 the business to discuss this issue.

15 20. Defendant's employee called the manager/owner as Plaintiff requested, and she
16 told her boss that Plaintiff refused to provide an ID for his service dog. Defendant's
17 manager/owner told Anna that she should make a one-time exception to the policy of requiring
18 IDs for service dogs for Plaintiff. Anna hung up the phone, completed the check-in process with
19 Plaintiff and provided him with the key to his room.

20 21. Plaintiff left the office and went to his room. However, Plaintiff was extremely
21 upset by Defendant's illegal change in policy surrounding service dogs and about the interaction
22 with Defendant's employee. After a few moments in his room, Plaintiff began experiencing
23 symptoms of a panic attack. Plaintiff decided that the best thing for him was to leave the motel
24 and find another place to stay for the night.

25 22. Plaintiff went back to the registration office. He informed Anna that he could not
26 stay at the Big Pines Mountain House due to Defendant's policy regarding service animals and
27 his poor treatment. He requested that she cancel his reservation and refund him the money he had
28 already paid for the room. Plaintiff told Anna that he could not support a business who did not

1 follow the ADA. Defendant's employee told Plaintiff that she could not provide him with a
2 refund for the room because he had booked the room through a third-party travel website.

3 23. Plaintiff then called Angora, the company that he had booked the room through, on
4 his cellphone from the lobby. He spoke to an employee of Angora, told them that he needed a
5 refund for his reservation, explained briefly why he needed a refund, and said that the motel was
6 refusing to refund his money because he had booked the room through Angora. After providing
7 this explanation, the Angora employee told Plaintiff that they would call the Big Pines Mountain
8 House to discuss the situation and try to get Plaintiff's money refunded. Plaintiff hung up his
9 phone and waited in the office for Defendant's employee to receive the phone call from Angora.

10 24. Angora did call the Big Pines Mountain House while Plaintiff was in the lobby,
11 and he overheard the conversation between the Angora representative and Defendant's employee.
12 Ultimately, the conversation between Angora and Defendant's employee ended with Defendant's
13 employee stating that Defendant does not allow refunds for rooms booked through third-party
14 websites.

15 25. By this point Plaintiff was extremely triggered. He felt himself becoming too
16 agitated, so he removed himself from the office of the Big Pines Mountain House. He went
17 across the street from the motel, sat on a log, and Harley began to perform deep pressure therapy
18 on him to calm him down. Plaintiff also called the police, explained the situation, and requested
19 assistance in obtaining a refund from the Big Pines Mountain House.

20 26. Plaintiff waited for approximately 20 minutes for the police to arrive. When they
21 arrived, Plaintiff again explained that he is a disabled veteran who uses a service dog to
22 ameliorate his disability. He explained that the Big Pines Mountain House violated his civil
23 rights by requiring him to show an ID for his service dog and is now refusing to refund his
24 money. Plaintiff also explained that he would like the police to take Anna's statement about the
25 incident. The police officer went inside the motel to speak with Anna while Plaintiff waited on
26 the log across the street with Harley.

27 27. The police officer returned after a few minutes. The police officer informed
28 Plaintiff that they had spoken with Anna. They said that Anna admitted that she had questioned

1 Plaintiff about his service dog. The police officer also told Plaintiff that Anna had admitted that
2 she had asked Plaintiff questions about him and his service dog that she should not have asked.
3 However, the police informed Plaintiff that Defendant's employee continued to refuse to provide
4 Plaintiff with a refund.

5 28. Plaintiff ultimately left the Big Pines Mountain House without receiving a refund.
6 He found another accommodation at the 3 Peaks Resort & Beach Club. As planned, one of
7 Plaintiff's friends met him in South Lake Tahoe later that evening. The two friends planned to go
8 snowboarding together at Heavenly the following day. Snowboarding is an activity that Plaintiff
9 really enjoys which relaxes and rejuvenates him. Unfortunately, when Plaintiff left to go
10 snowboarding, he was still ruminating on the incident at the Big Pines Mountain House. Plaintiff
11 was so distracted by the incident that he forgot to bring his snowboard to the mountain.

12 29. Plaintiff had to wait to receive his refund from the third-party he booked the hotel
13 room with, despite the fact that it was Defendant's behavior which forced him to cancel the
14 reservation.

15 30. Defendant's intentional policy of unlawfully requiring service dog owners to
16 produce "identification cards" or other unidentified "paperwork" for their service dogs is clearly
17 meant to discourage and deter disabled people who require the assistance of a service dog from
18 staying at its motel. Alternatively, it does not provide the option not to pay the pet fee when
19 disabled persons who use service dogs have no choice but to be accompanied by their service
20 dogs. This is unlike pet owners who can choose to bring their pets or not. Further, Defendant's
21 terrible treatment of Plaintiff when he was attempting to assert his civil rights completely ruined
22 his trip.

23 31. Plaintiff would have stayed at the Big Pines Mountain House on several occasions
24 but was deterred from doing so due to Defendant's service dog policies and treatment of him.
25 Instead, he stayed at other hotels nearby on February 28, 3 Peaks Resort, 29th – March 8 at 3
26 Peaks Resort; Econolodge 25-27th March, April 1-3 Econolodge, 7th – 11th at Econolodge, 16th to
27 the 19th at Econolodge.

28 32. Plaintiff wishes to return to the Big Pines Mountain House when he takes his next

1 trip to South Lake Tahoe, but he can do so only *after* Defendant has implemented proper service
 2 animal policies and training of its staff. Plaintiff is deterred from returning to the motel until
 3 these policies and training are in place.

4 **FIRST CAUSE OF ACTION:**
 5 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**
 6 **(42 USC §§ 12101 *et seq.*)**

7 33. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
 8 the factual allegations contained in Paragraphs 1 through 32, above, and incorporates them herein
 9 by reference as if separately replied hereafter.

10 34. In 1990 Congress passed the Americans with Disabilities Act after finding that
 11 laws were needed to more fully protect “some 43 million Americans with one or more physical or
 12 mental disabilities; that historically society has tended to isolate and segregate individuals with
 13 disabilities;” that “such forms of discrimination against individuals with disabilities continue to
 14 be a serious and pervasive social problem”; that “the Nation’s proper goals regarding individuals
 15 with disabilities are to assure equality of opportunity, full participation, independent living and
 16 economic self-sufficiency for such individuals”; and that “the continuing existence of unfair and
 17 unnecessary discrimination and prejudice denies people with disabilities the opportunity to
 18 compete on an equal basis and to pursue those opportunities for which our free society is
 19 justifiably famous.” 42 U.S.C. § 12101(a).

20 35. The ADA provides, “No individual shall be discriminated against on the basis of
 21 disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages,
 22 or accommodations of any place of public accommodation by any person who owns, leases, or
 23 leases to, or operates a place of public accommodation.” 42 USC § 12182.

24 36. Plaintiff is a qualified individual with a disability as defined in the Rehabilitation
 25 Act and in the Americans with Disabilities Act of 1990.

26 37. Big Pines Mountain House is a public accommodation within the meaning of Title
 27 III of the ADA. 42 U.S.C. § 12181(7)(A).

28 38. The ADA prohibits, among other types of discrimination, “failure to make
 29 reasonable modifications in policies, practices or procedures when such modifications are

1 necessary to afford such goods, services, facilities, privileges, advantages or accommodations to
2 individuals with disabilities.” 42 U.S.C. § 12182(b)(2)(A)(ii).

3 39. Under the “2010 Revised ADA Requirements: Service Animals,” as published by
4 the United States Department of Justice, and distributed by the DOJ’s Civil Rights Division,
5 Disability Rights Section, “Generally, title II and title III entities must permit service animals to
6 accompany people with disabilities in all areas where members of the public are allowed to go.”
7 ADA 2010 Revised Requirements, www.ada.gov/service-animals-2010.htm Further,

8 **Under the ADA, State and local governments, businesses, and nonprofit
9 organizations that serve the public generally must allow service animals to
accompany people with disabilities in all areas of the facility where the public
is normally allowed to go.**

10 *Ibid.*, emphasis in original.

11 40. Defendant has a policy and practice of requiring guests with service animals to
12 provide registration cards or other paperwork identifying their dogs as service animals at the Big
13 Pines Mountain House. This is contrary to the ADA. This is contrary to the ADA. The
14 Department of Justice issued guidance on the subject of “Service Animals.” In relevant part, the
15 guidance states:

16 • A person with a disability cannot be asked to remove his service animal from the
17 premises unless: (1) the dog is out of control and the handler does not take
18 effective action to control it or (2) the dog is not housebroken. When there is a
19 legitimate reason to ask that a service animal be removed, staff must offer the
20 person with the disability the opportunity to obtain goods or services without the
21 animal’s presence.

22 DOJ 2010 “Service Animal” guidance available at <https://www.ada.gov/resources/service-animals-2010-requirements/>. Similarly, the DOJ’s FAQs regarding Services Animals mirror
23 these requirements specifically in the hotel context:

24 **Q17. Does the ADA require that service animals be certified as service
25 animals?**

26 A. No. Covered entities may not require documentation, such as proof that the
27

1 animal has been certified, trained, or licensed as a service animal, as a condition for
2 entry.

3 **There are individuals and organizations that sell service animal certification**
4 **or registration documents online. These documents do not convey any rights**
5 **under the ADA and the Department of Justice does not recognize them as**
6 **proof that the dog is a service animal.**

7 <https://www.ada.gov/resources/service-animals-faqs/>

8 41. On information and belief, as of the date of Plaintiff's most recent visit to the Big
9 Pines Mountain House on or about February 29, 2024, Defendant continues to deny full and equal
10 access to Plaintiff and to discriminate against Plaintiff on the basis of Plaintiff's disabilities, thus
11 wrongfully denying to Plaintiff the full and equal enjoyment of the goods, services, facilities,
12 privileges, advantages and accommodations of Defendant's premises, in violation of the ADA.

13 42. In passing the Americans with Disabilities Act of 1990 (hereinafter "ADA"),
14 Congress stated as its purpose:

15 It is the purpose of this Act

16 (1) to provide a clear and comprehensive national mandate for the elimination of
17 discrimination against individuals with disabilities;
18 (2) to provide clear, strong, consistent, enforceable standards addressing discrimination
19 against individuals with disabilities;
20 (3) to ensure that the Federal Government plays a central role in enforcing the standards
21 established in this Act on behalf of individuals with disabilities; and
22 (4) to invoke the sweep of congressional authority, including the power to enforce the
23 fourteenth amendment and to regulate commerce, in order to address the major areas of
24 discrimination faced day-to-day by people with disabilities.

25 42 USC § 12101(b).

26 43. As part of the ADA, Congress passed "Title III - Public Accommodations and
27 Services Operated by Private Entities" (42 USC § 12181 *et seq.*). The subject property and
28 facility are one of the "private entities" which are considered "public accommodations" for
purposes of this title, which includes any "hotel, motel or other place of lodging." 42 USC §
12181(7)(A).

1 44. The ADA states that “No individual shall be discriminated against on the basis of
2 disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages,
3 or accommodations of any place of public accommodation by any person who owns, leases, or
4 leases to, or operates a place of public accommodation.” 42 U.S.C. § 12182. The specific
5 prohibitions against discrimination include, but are not limited to the following:

6 § 12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It shall be discriminatory to afford an
7 individual or class of individuals, on the basis of a disability or disabilities of such individual or
8 class, directly, or through contractual, licensing, or other arrangements, with the opportunity to
9 participate in or benefit from a good, service, facility, privilege, advantage, or accommodation
10 that is not equal to that afforded to other individuals.”

11 § 12182(b)(2)(A)(ii): “a failure to make reasonable modifications in policies, practices, or
12 procedures when such modifications are necessary to afford such goods, services, facilities,
13 privileges, advantages, or accommodations to individuals with disabilities...;”

14 § 12182(b)(2)(A)(iii): “a failure to take such steps as may be necessary to ensure that no
15 individual with a disability is excluded, denied service, segregated, or otherwise treated
16 differently than other individuals because of the absence of auxiliary aids and services...;”

17 § 12182(b)(2)(A)(iv): “a failure to remove architectural barriers, and communication barriers that
18 are structural in nature, in existing facilities... where such removal is readily achievable;”

19 § 12182(b)(2)(A)(v): “where an entity can demonstrate that the removal of a barrier under clause
20 (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges,
21 advantages, or accommodations available through alternative methods if such methods are readily
22 achievable.”

23 The acts and omissions of Defendant set forth herein were in violation of Plaintiff’s rights
24 under the ADA and the regulations promulgated thereunder, 28 C.F.R. Part 36 *et seq.*

25 45. The removal of each of the policy barriers complained of by Plaintiff as
26 hereinabove alleged, were at all times herein mentioned “readily achievable” under the standards
27 of sections 12181 and 12182 of the ADA. As noted hereinabove, removal of each and every one
28 of the policy barriers complained of herein were already required under California law. In the

1 event that removal of any barrier is found to be “not readily achievable,” Defendant still violated
2 the ADA, per section 12182(b)(2)(A)(v) by failing to provide all goods, services, privileges,
3 advantages and accommodations through alternative methods that were “readily achievable.”

4 46. On information and belief, as of the dates of Plaintiff’s encounters at the premises
5 and as of the filing of this Complaint, Defendant’s actions, policies, and physical premises have
6 denied and continue to deny full and equal access to Plaintiff and to other disabled persons who
7 work with service dogs, which violates Plaintiff’s right to full and equal access and which
8 discriminates against Plaintiff on the basis of his disabilities, thus wrongfully denying to Plaintiff
9 the full and equal enjoyment of the goods, services, facilities, privileges, advantages and
10 accommodations, in violation of 42 U.S.C. sections 12182 and 12183 of the ADA.

11 47. Defendant’s actions continue to deny Plaintiff’s rights to full and equal access by
12 deterring Plaintiff from patronizing the Big Pines Mountain House and discriminated and
13 continue to discriminate against Plaintiff on the basis of his disabilities, thus wrongfully denying
14 to Plaintiff the full and equal enjoyment of Defendant’s goods, services, facilities, privileges,
15 advantages and accommodations, in violation of section 12182 of the ADA. 42 U.S.C. § 12182.

16 48. Pursuant to the Americans with Disabilities Act, 42 U.S.C. sections 12188 *et seq.*,
17 Plaintiff is entitled to the remedies and procedures set forth in section 204(a) of the Civil Rights
18 Act of 1964, 42 USC 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis of
19 his disabilities in violation of sections 12182 and 12183. On information and belief, Defendant
20 has continued to violate the law and deny the rights of Plaintiff and other disabled persons to “full
21 and equal” access to this public accommodation since on or before Plaintiff’s encounters.

22 Pursuant to section 12188(a)(2)

23 [i]n cases of violations of § 12182(b)(2)(A)(iv) and § 12183(a)... injunctive relief
24 shall include an order to alter facilities to make such facilities readily accessible to
25 and usable by individuals with disabilities to the extent required by this title. Where
26 appropriate, injunctive relief shall also include requiring the provision of an
auxiliary aid or service, modification of a policy, or provision of alternative
methods, to the extent required by this title.

27 49. Plaintiff seeks relief pursuant to remedies set forth in section 204(a) of the Civil
28 Rights Act of 1964 (42 USC 2000(a)-3(a)), and pursuant to Federal Regulations adopted to

1 implement the Americans with Disabilities Act of 1990. Plaintiff is a qualified disabled person
2 for purposes of § 12188(a) of the ADA who is being subjected to discrimination on the basis of
3 disability in violation of Title III and who has reasonable grounds for believing he will be
4 subjected to such discrimination each time that he may use the property and premises, or attempt
5 to patronize the Big Pines Mountain House, in light of Defendant's policies barriers.

6 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

7

8 **SECOND CAUSE OF ACTION:**
VIOLATION OF CALIFORNIA LAW INCLUDING: THE UNRUH ACT, CIVIL
CODE SECTIONS 51 AND 52, AND THE AMERICANS WITH DISABILITIES
ACT AS INCORPORATED
BY CIVIL CODE SECTION 51(f)

9

10 50. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein,
11 the allegations contained in Paragraphs 1 through 49 of this Complaint and incorporates them
12 herein as if separately re-pledged.

13 51. At all times relevant to this action, the Unruh Civil Rights Act, California Civil
14 Code § 51(b), provided that:

15 All persons within the jurisdiction of this state are free and equal, and no matter
16 what their sex, race, color, religion, ancestry, national origin, disability, or medical
17 condition are entitled to the full and equal accommodations, advantages, facilities,
privileges, or services in all business establishments of every kind whatsoever.

18 52. California Civil Code section 52 provides that the discrimination by Defendant
19 against Plaintiff on the basis of disability constitutes a violation of the general anti-discrimination
20 provisions of sections 51 and 52.

21 53. Each of Defendant's discriminatory acts or omissions constitutes a separate and
22 distinct violation of California Civil Code section 52, which provides that:

23 Whoever denies, aids or incites a denial, or makes any discrimination or distinction
24 contrary to section 51, 51.5, or 51.6 is liable for each and every offense for the
actual damages, and any amount that may be determined by a jury, or a court sitting
without a jury, up to a maximum of three times the amount of actual damage but in
no case less than four thousand dollars (\$4,000), and any attorney's fees that may
be determined by the court in addition thereto, suffered by any person denied the
rights provided in Section 51, 51.5, or 51.6.

25 54. Any violation of the Americans with Disabilities Act of 1990 constitutes a
26 violation of California Civil Code section 51(f), thus independently justifying an award of

1 damages and injunctive relief pursuant to California law, including Civil Code section 52. Per
2 Civil Code section 51(f), “A violation of the right of any individual under the Americans with
3 Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

4 55. The actions and omissions of Defendant as herein alleged constitute a denial of
5 access to and use of the described public facilities by disabled persons who use service dogs
6 within the meaning of California Civil Code sections 51 and 52. As a proximate result of
7 Defendant’s action and omissions, Defendant has discriminated against Plaintiff in violation of
8 Civil Code sections 51 and 52, and are responsible for statutory and compensatory to Plaintiff,
9 according to proof.

10 56. **FEES AND COSTS:** As a result of Defendant’s acts, omissions and conduct,
11 Plaintiff has been required to incur attorney fees, litigation expenses and costs as provided by
12 statute in order to enforce Plaintiff’s rights and to enforce provisions of law protecting access for
13 disabled persons and prohibiting discrimination against disabled persons. Plaintiff therefore
14 seeks recovery of all reasonable attorney fees, litigation expenses and costs pursuant to the
15 provisions of California Civil Code sections 51 and 52. Additionally, Plaintiff’s lawsuit is
16 intended to require that Defendant make its facilities and policies accessible to all disabled
17 members of the public, justifying “public interest” attorney fees, litigation expenses and costs
18 pursuant to the provisions of California Code of Civil Procedure section 1021.5 and other
19 applicable law.

20 57. Plaintiff suffered damages as above-described as a result of Defendant’s
21 violations.

22 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

23 **THIRD CAUSE OF ACTION:**
24 **DAMAGES AND INJUNCTIVE RELIEF**
25 **FOR DENIAL OF FULL AND EQUAL ACCESS TO PUBLIC FACILITIES IN A**
26 **PUBLIC ACCOMMODATION**
27 **(Civil Code §§ 54 *et seq.*)**

28 58. Plaintiff re-pleads and incorporates by reference, as if fully set forth hereafter, the
factual allegations contained in Paragraphs 1 through 57 of this Complaint and all paragraphs of
the third cause of action, as plead infra, incorporates them herein as if separately re-pledged.

1 59. Under the California Disabled Persons Act (CDPA), people with disabilities are
2 entitled to the “full and free use of . . . public buildings, . . . public facilities, and other public
3 places.” Civil Code § 54(a).

4 60. Civil Code section 54.1(a)(1) further guarantees the right of “full and equal
5 access” by persons with to “accommodations, advantages, facilities . . . hotels, lodging places of
6 accommodation, amusement or resort, or other places to which the general public is invited.”
7 Civil Code § 54.1(c) also specifies that, “individuals with a disability and persons authorized to
8 train service dogs for individuals with a disability, may take dogs, for the purpose of training
9 them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a)
10 and (b).”

11 61. Civil Code section 54.2(a) specifically protects the right of “every individual with
12 a disability” “to be accompanied by a guide dog, signal dog, or service dog, especially trained for
13 the purpose, in any of the places specified in Section 54.1.”

14 62. Civil Code section 54.3(b) makes liable “Any person or persons, firm or
15 corporation who denies or interferes with admittance to or enjoyment of the public facilities as
16 specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a
17 disability under Sections 54, 54.1 and 54.2.” This section also specifies that, “[I]nterfere,’ for
18 purposes of this section, includes, but is not limited to, preventing or causing the prevention of a
19 guide dog, signal dog, or service dog from carrying out its functions in assisting a disabled
20 person.”

21 63. Defendant is also in violation of California Penal Code section 365.5(b) which
22 states:

23 No blind person, deaf person, or disabled person and his or her specially trained
24 guide dog, signal dog, or service dog shall be denied admittance to
25 accommodations, advantages, facilities, medical facilities, including hospitals,
clinics, and physicians’ offices, telephone facilities, adoption agencies, private
schools, hotels, lodging places, places of public accommodation, amusement or
resort, and other places to which the general public is invited within this state
26 because of that guide dog, signal dog, or service dog.

27 64. The Big Pines Mountain House is a public accommodation within the meaning of
28 the CDPA. On information and belief, Defendant is the owner, operator, lessor or lessee of the

1 public accommodation.

2 65. Defendant made the decision to knowingly and willfully exclude Plaintiff and his
3 service dog from its public accommodation by requiring unnecessary and unidentified paperwork
4 for the service dog and thereby deny Plaintiff's his right of entrance into their place of business
5 with his service dog. As a result of that decision Plaintiff has faced the continuing discrimination
6 of being essentially barred from entering this public accommodation and place of business based
7 upon Defendant's illegal requirement for paperwork for Plaintiff's legally protected use of his
8 service dog. Plaintiff has continued to suffer denial of access to these facilities, and he faces the
9 prospect of unpleasant and discriminatory treatment should he attempt to return to these facilities.
10 Plaintiff is unable to return to the Big Pines Mountain House until he receives the protection of
11 this Court's injunctive relief, and he has continued to suffer discrimination on a daily basis since
12 February 29, 2024, all to his statutory damages pursuant to California Civil Code §§ 54.1, 54.2,
13 and 54.3 and California Penal Code section 365.5.

14 66. **INJUNCTIVE RELIEF:** Plaintiff seeks injunctive relief to prohibit the acts and
15 omissions of Defendant as complained of herein which are continuing on a day-to-day basis and
16 which have the effect of wrongfully excluding Plaintiff and other members of the public who are
17 disabled and who require the assistance of service animals from full and equal access to these
18 public facilities. Such acts and omissions are the cause of humiliation and mental and emotional
19 suffering of Plaintiff in that these actions continue to treat Plaintiff as an inferior and second-class
20 citizen and serve to discriminate against him on the sole basis that Plaintiff is a person with
21 disabilities who requires the assistance of a service animal.

22 67. Plaintiff wishes to return to patronize the Big Pines Mountain House but is
23 deterred from returning to use these facilities, because the lack of access and the significant
24 policy barriers will foreseeably cause him further difficulty, discomfort and embarrassment, and
25 Plaintiff is unable, so long as such acts and omissions of Defendant continue, to achieve equal
26 access to and use of these public facilities. Therefore, Plaintiff cannot return to patronize the Big
27 Pines Mountain House and its facilities and is deterred from further patronage until these facilities
28 are made properly accessible for disabled persons, including Plaintiff and other disabled

1 individuals who require the assistance of a service animal.

2 68. The acts of Defendant have proximately caused and will continue to cause
3 irreparable injury to Plaintiff if not enjoined by this Court. Plaintiff seeks injunctive relief as to
4 Defendant's inaccessible policies. As to the Defendant that currently owns, operates, and/or
5 leases (from or to) the subject premises, Plaintiff seeks preliminary and permanent injunctive
6 relief to enjoin and eliminate the discriminatory practices that deny full and equal access for
7 disabled persons and those associated with them, and seeks an award of reasonable statutory
8 attorney fees, litigation expenses and costs.

9 69. Wherefore Plaintiff asks this Court to preliminarily and permanently enjoin any
10 continuing refusal by Defendant to grant full and equal access to Plaintiff in the ways complained
11 of and to require Defendant to comply forthwith with the applicable statutory requirements
12 relating to access for disabled persons. Such injunctive relief is provided by California Civil
13 Code sections 54.1, 54.2 and 55, and other laws. Plaintiff further requests that the Court award
14 damages pursuant to Civil Code section 54.3 and other law and attorney fees, litigation expenses,
15 and costs pursuant to Civil Code sections 54.3 and 55, Code of Civil Procedure section 1021.5
16 and other law, all as hereinafter prayed for.

17 70. **DAMAGES:** As a result of the denial of full and equal access to the described
18 facilities and due to the acts and omissions of Defendant in owning, operating, leasing,
19 constructing, altering, and/or maintaining the subject facilities, Plaintiff has suffered a violation of
20 his civil rights, including but not limited to rights under Civil Code sections 54 and 54.1, and has
21 suffered difficulty, discomfort and embarrassment, and physical, mental and emotional personal
22 injuries, all to his damages per Civil Code section 54.3, including general and statutory damages,
23 as hereinafter stated. Defendant's actions and omissions to act constitute discrimination against
24 Plaintiff on the basis that he was and is disabled and unable, because of the policy barriers created
25 and/or maintained by the Defendant in violation of the subject laws, to use the public facilities on
26 a full and equal basis as other persons. The violations have deterred Plaintiff from returning to
27 attempt to patronize the Big Pines Mountain House and will continue to cause him damages each
28 day these barriers to access and policy barriers continue to be present.

1 71. Although it is not necessary for Plaintiff to prove wrongful intent in order to show
2 a violation of California Civil Code sections 54 and 54.1 or of Title III of the ADA (*see Donald v.*
3 *Café Royale*, 218 Cal. App. 3d 168 (1990)), Defendant's behavior was intentional. Defendant was
4 aware and/or was made aware of its duties to refrain from establishing discriminatory policies
5 against disabled persons, prior to the filing of this complaint. Defendant's establishment of its
6 discriminatory policy to deny and restrict entry to persons with service dogs, and its
7 implementation of such a discriminatory policy against Plaintiff, indicate actual and implied
8 malice toward Plaintiff and conscious disregard for Plaintiff's rights and safety.

9 **72. FEES AND COSTS:** As a result of Defendant’s acts, omissions, and conduct,
10 Plaintiff has been required to incur attorney fees, litigation expenses, and costs as provided by
11 statute, in order to enforce Plaintiff’s rights and to enforce provisions of the law protecting access
12 for disabled persons and prohibiting discrimination against disabled persons. Plaintiff therefore
13 seeks recovery of all reasonable attorney fees, litigation expenses, and costs, pursuant to the
14 provisions of Civil Code sections 54.3 and 55. Additionally, Plaintiff’s lawsuit is intended to
15 require that Defendant make its facilities accessible to all disabled members of the public,
16 justifying “public interest” attorney fees, litigation expenses and costs pursuant to the provisions
17 of California Code of Civil Procedure section 1021.5 and other applicable law.

18 73. Plaintiff suffered damages as above described as a result of Defendant's violations.
19 Damages are ongoing based on their deterrence from returning to the Big Pines Mountain House.

20 ||| WHEREFORE, Plaintiff prays for relief as hereinafter stated.

PRAYER

22 Plaintiff has no adequate remedy at law to redress the wrongs suffered as set forth in this
23 Complaint. Plaintiff has suffered and will continue to suffer irreparable injury as a result of the
24 unlawful acts, omissions, policies, and practices of the Defendant as alleged herein, unless
25 Plaintiff is granted the relief he requests. Plaintiff and Defendant have an actual controversy and
26 opposing legal positions as to Defendant's violations of the laws of the United States and the
27 State of California. The need for relief is critical because the rights at issue are paramount under
28 the laws of the United States and the State of California.

1 WHEREFORE, Plaintiff Josh Richey prays for judgment and the following specific relief
2 against Defendant:

3 1. An order enjoining Defendant, its agents, officials, employees, and all persons
4 acting in concert with them:

5 a. From continuing the unlawful acts, conditions, and practices described in this
6 Complaint;

7 b. To modify its policies and practices to accommodate service dog users in
8 conformity with federal and state law, and to advise Plaintiff that his service dog
9 will not be excluded and he will not be required to show any paperwork or
10 registration cards should he desire to enter and use the services of the Big Pines
11 Mountain House;

12 c. That the Court issue preliminary and permanent injunction directing Defendant as
13 current owner, operator, lessor, and/or lessee and/or its agents of the subject
14 property and premises to modify the above described property, premises, policies
15 and related policies and practices to provide full and equal access to all persons,
16 including persons with disabilities; and issue a preliminary and permanent
17 injunction pursuant to ADA section 12188(a) and state law directing Defendant to
18 provide facilities usable by Plaintiff and similarly situated persons with disabilities
19 and which provide full and equal access, as required by law, and to maintain such
20 accessible facilities once they are provided and to train Defendant's employees and
21 agents in how to recognize disabled persons and accommodate their rights and
22 needs;

23 d. An order retaining jurisdiction of this case until Defendant has fully complied with
24 the orders of this Court, and there is a reasonable assurance that Defendant will
25 continue to comply in the future absent continuing jurisdiction;

26 2. An award to Plaintiff of statutory, actual, general, and punitive damages in
27 amounts within the jurisdiction of the Court, all according to proof;

28 3. An award of civil penalty as against Defendant under California Penal Code §

1 365.5(c);

2 4. An award to Plaintiff pursuant to 42 U.S.C. § 12205, 29 U.S.C. § 794a, California
3 Civil Code §§ 52 and 54.3, California Code of Civil Procedure § 1021.5, and as otherwise
4 permitted by law, of the costs of this suit and reasonable attorneys' fees and litigation expenses;

5 5. An award of prejudgment interest pursuant to Civil Code § 3291;

6 6. Interest on monetary awards as permitted by law; and

7 7. Grant such other and further relief as this Court may deem just and proper.

8 Date: September 19, 2024

REIN & CLEFTON

9 /s/ Aaron M. Clefton
10 By AARON M. CLEFTON, Esq.
11 Attorneys for Plaintiff
JOSH RICHEY

12 **JURY DEMAND**

13 Plaintiff hereby demands a trial by jury for all claims for which a jury is permitted.

14 Date: September 19, 2024

REIN & CLEFTON

15 /s/ Aaron M. Clefton
16 By AARON M. CLEFTON, Esq.
17 Attorneys for Plaintiff
JOSH RICHEY

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